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JOHN F. DAVIS, CLERK

IN THE

Supreme Court of the United States

OCTOBER TERM, 1964

No. 687

INDUSTRIAL SHOE MACHINERY CORP.,
PETITIONER,

v.

UNITED SHOE MACHINERY CORPORATION,
RESPONDENT.

PETITION FOR REHEARING OF DENIAL OF PETITION FOR WRIT OF CERTIORARI

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The petitioner respectfully requests a rehearing of the denial of a writ of certiorari in view of the Court's granting certiorari on January 18, 1965, in another case involving substantially identical issues.

In *Graham et al* vs. *John Deere Co. of Kansas City*, No. 580, October term 1964, the Court granted a writ of certiorari to review the decision of the Court of Appeals for the Eighth Circuit. In that case, the District Court found a patent valid, but the Court of Appeals found it invalid for want of invention. In the present case, the District Court found a patent invalid for want of invention, but the Court of Appeals for the First Circuit found the patent valid. In both cases the central issue concerns the proper

legal standard to be applied by a trial court in determining validity of a patent.

It is believed that precedent for this Court now granting the petition for writ of certiorari is found in *Pickett* vs. *Union Terminal Co.* 313 US 591, 314 US 704, 315 US 386, 394 and *Bowden* vs. *Fort Smith*, 316 US 584, 589.

JOSEPH ZALLEN
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Counsel for Petitioner

CERTIFICATE OF COUNSEL

The undersigned, counsel for the petitioner, hereby certifies that this Petition for Rehearing is made in good faith and not for purposes of delay and is restricted to an intervening circumstance of substantial effect.

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